

**GUILTY PLEA — For plea to be knowing, intelligent, and voluntary, the court must advise defendant of amount of possible fines**

**Revised 11/2009**

For a defendant's plea to be made knowingly, intelligently, and voluntarily, the court must make sure that the defendant is aware of the maximum amount of the fine, including surcharges, that the court can impose. *State v. King*, 157 Ariz. 508, 510, 759 P.2d 1312, 314 (1988); *State v. Scroggins*, 168 Ariz. 8, 9, 810 P.2d 631, 632. (App. 1991). However, the court need not advise the defendant about who will receive the money he pays as a fine. In *King*, after the trial court advised the defendant that he could be ordered to pay up to a fine of \$150,000 plus surcharges, the defendant pleaded guilty to theft under \$500 and other offenses. The amount of *restitution* the court could order for the theft was limited to \$500 because that was the amount the defendant had admitted stealing. However, because the victim's losses actually exceeded that amount, the court ordered the defendant to pay a fine of over \$16,000, to be paid to the victim. The defendant appealed, arguing that his plea was not voluntary because he did not agree to pay the victim that amount of restitution. The Arizona Supreme Court disagreed, stating:

In the case of a fine, the defendant must be aware of maximum [*sic*] amount of the fine which can be imposed before a plea may be said to be voluntarily and intelligently made. The distribution of the fine, whether to the state or to the victim, is irrelevant to the determination of a knowledgeable plea.

It is sufficient if the defendant is aware of the amount of the fine from any source, such as the written plea agreement. See generally *State v. Adams*, 159 Ariz.

168, 171, 765 P.2d 992, 995 (1988). Both as to the amount of fine and the amount of restitution, the defendant will not be allowed to withdraw from his guilty plea unless he shows both that 1) he was not aware of that information and that 2) the missing information was a real factor in the defendant's decision to plead guilty. *State v. Crowder*, 155 Ariz. 477, 482, 747 P.2d 1176, 1181 (1987).